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Attorneys for Plaintiff YELLOWCAKE, INC., and Counterdefendants YELLOWCAKE, INC.,
COLONIZE MEDIA, INC., and JOSE DAVID HERNANDEZ

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

YELLOWCAKE, INC., a California corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-DJC-JDP

**REPLY DECLARATION OF SETH L.
BERMAN IN FURTHER SUPPORT OF
PLAINTIFF AND
COUNTERDEFENDANTS' RULE 56
MOTION FOR SUMMARY JUDGMENT
AND SUMMARY ADJUDICATION**

Judge: Hon. Daniel J. Calabretta
Date: September 29, 2023
Courtroom: Courtroom 10, 13th floor

1 HYPHY MUSIC, INC.,)
 2)
 3 Counterclaimant,)
 4)
 5 v.)
 6)
 7 YELLOWCAKE, INC., A CALIFORNIA)
 CORPORATION; COLONIZE MEDIA, INC.;)
 8 JOSE DAVID HERNANDEZ; and JESUS)
 CHAVEZ SR,)
 9)
 10 Counterdefendants.)

11 SETH L. BERMAN, declares as follows:

12 1. I am a partner in the law firm of Abrams Fensterman, LLP and I am admitted
 13 *pro hac vice* in connection with this matter to practice before this Court. (ECF 6). I am
 14 counsel of record for Plaintiff Yellowcake, Inc. ("Yellowcake" or "Plaintiff") and
 15 Counterdefendants Yellowcake, Colonize Media, Inc., ("Colonize") and Jose David
 16 Hernandez ("Hernandez"), and as such, I have personal knowledge of the facts and
 17 circumstances in this matter.

18 2. This declaration is being submitted in further support of Yellowcake and
 19 Colonize's Motion for Summary Judgment and Summary Adjudication pursuant to Federal
 20 Rule of Civil Procedure 56.

21 3. This declaration is based upon my personal knowledge obtained as attorney
 22 for Yellowcake and Colonize, as well as the Exhibits annexed hereto, the accompanying
 23 Memorandum of Points and Authorities, and all prior pleadings and proceedings had herein.

24 **FACTS & EXHIBITS**

25 4. For the sake of brevity and judicial economy, the undersigned restates the
 26 facts set forth in the accompanying Statement of Uncontested Facts (Dkt. 82-18),
 27 Memorandum of Points and Authorities ("MPA") (Dkt. 82) and Declarations of Kevin Berger
 28 (Dkt. 82-14) and Jose David Hernandez (Dkt. 82-16) and incorporates them as if fully set

1 forth herein.¹

2 5. Attached hereto as Exhibits are true and correct copies of the documents
3 referenced in the MPA.

4 6. Attached hereto as **Exhibit "A"** is a copy of excerpts from the deposition
5 transcript of Jose Martinez dated July 26, 2022.

6 7. Attached hereto as **Exhibit "B"** is a copy of excerpts from the deposition
7 transcript of Jesus Chavez, Sr. dated January 9, 2023.

8 **WHEREFORE**, the undersigned respectfully requests that this Court grant
9 Plaintiff/Counterdefendant Yellowcake, Colonize and Hernandez's Motion for Summary
10 Judgment and Summary Adjudication pursuant to Fed. R. Civ. P. 56, together with such
11 other and further relief as this Court deems just and proper.

12 I declare under penalty of perjury under the laws of the United States that the
13 foregoing is true and correct.

14 Dated: September 15, 2023

15 Respectfully submitted,

16 **ABRAMS FENSTERMAN, LLP**

17 By: /s/ Seth L. Berman

18 Seth L. Berman, Esq. (*admitted pro hac vice*)

19 ***Attorneys for Plaintiff Yellowcake, Inc., and***
20 ***Counterdefendants Colonize Media, Inc., and***
21 ***Jose David Hernandez***

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28 ¹ All capitalized yet undefined terms used herein have the same meaning ascribed to them in the
accompanying Statement of Uncontested Facts.